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HUMAN RIGHTS COMMITTEE

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SUMMARY RECORD OF THE 1713rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 27 October 1998, at 3 p.m.

Chairperson: Ms. MEDINA-QUIROGA
(Vice-Chairperson)

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GE.98-19229 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of the Libyan Arab Jamahiriya (CCPR/C/102/Add.1; HRI/CORE/1/Add.77; CCPR/C/64/Q/LIB/1) (continued)

1. At the invitation of the Chairperson, Mr. Hafyana, Mr. Tleba, Mrs. al-Hajjaji and Mrs. Shaweish (Libyan Arab Jamahiriya) resumed their places at the Committee table.

2. Mr. WIERUSZIESWKI said he was disappointed that the third periodic report of the Libyan Arab Jamahiriya (CCPR/C/102/Add.1) focused almost exclusively on legislative provisions and provided very little information on how the legislation was implemented in practice. He also regretted the fact that it failed to address the Committee's concluding observations on the second periodic report. He associated himself with Mr. Scheinin's remarks at the previous meeting concerning the death penalty, disappearances and other issues.

3. The delegation had provided no practical information in response to paragraph 4 of the list of issues (CCPR/C/64/Q/LIB/1), concerning prison conditions. The material received from international non-governmental organizations (NGOs) seemed to reveal a consistent pattern of ill-treatment of prisoners. Was there any independent body, unrelated to the Office of the People's Prosecutor or the prison warden system, which had the authority to inspect prisons and receive complaints? How many complaints had been received by the Office of the People's Prosecutor, how frequently were complaints lodged and what remedies existed? The delegation had referred to damages awarded for proven ill-treatment of detainees. Was there any provision for compensating persons who had been detained without charge or trial for a prolonged period and then released? What facilities were there to enable prisoners to contact lawyers, family members and doctors?

4. Mr. KRETZMER said he was also somewhat disappointed by the report. In its concluding observations on the second periodic report, the Committee had already expressed regret at the lack of practical information. A productive dialogue called for some measure of action on the Committee's recommendations.

5. He endorsed Mr. Scheinin's remarks regarding collective punishment. He had information to the effect that a law regulating the system of collective punishment had been enacted in March 1997 and asked for details about its provisions.

6. The delegation had denied all allegations of torture and ill-treatment in its reply to paragraph 2 of the list of issues. To be credible, the State party should back up those denials with a description of the system it used to investigate claims of ill-treatment. For example, there had been consistent allegations of torture and ill-treatment at Abu Salim prison, where a mutiny had taken place in July 1996. The harsh reaction by the authorities had allegedly resulted in the death of some prisoners. What kind of investigation

had been conducted into the reasons for the mutiny and the authorities' reaction? The Committee would be particularly interested in receiving a copy of the report of the investigating body.

7. According to NGO sources, a number of people had been held for long periods without trial in the Jamahiriya and efforts to determine their whereabouts had met with no response. Mr. Rashid Abd al-Hamid al 'Urfa had allegedly been detained without trial since February 1992 and Mohammed Suleiman al-Qaid since 1991. Mohammed Salem and Salem Mu'ammar had reportedly been arrested in Benghazi in June 1997 and held without trial ever since. Where were those four detainees being held and on what charges?

8. Deportation of persons to a country where their life would be in danger or where they might be subjected to torture or cruel, inhuman or degrading treatment was a violation of the Covenant. Ten persons had been extradited from the Libyan Arab Jamahiriya to Tunisia, where they had been alleged to be members of an illegal group and were liable to be subjected to ill-treatment. Did the Government find it acceptable to return wanted persons in such circumstances?

9. Mr. ANDO commended the Libyan Arab Jamahiriya on its timely submission of reports to the Committee. However, he shared the view that a great deal more information on practical implementation of the Covenant was required.

10. The Constitution referred to the Revolution Command Council as the central executive authority, but there was very little reference to the legislature and the judiciary. It was therefore difficult to visualize the overall administrative structure. He hoped that the new constitution would provide a clearer picture of the division of powers, particularly of the mechanisms designed to ensure the independence of the judiciary.

11. Could the delegation account for the fact that the Committee had thus far received only one complaint from a Libyan citizen under the Optional Protocol to the Covenant?

12. The Jamahiriya had listed the offences punishable by the death penalty in paragraph 11 of the supplement to the second periodic report (CCPR/C/28/Add.17) but too little detail was provided. He would appreciate further information on the offences listed. Again, could divorce proceedings be initiated on the same grounds by women and men? If a Libyan married a foreigner, was any distinction made in terms of, for example, rights to permanent residence or transmission of names when the Libyan partner was a female?

13. Mr. BHAGWATI joined other members of the Committee in deploring the lack of information in the report and the oral introduction on the practical implementation of rights.

14. He wished to know whether the provisions of the Great Green Document on Human Rights could be enforced in the courts. How did the three basic documents, the Constitution, the Great Green Document on Human Rights and the Covenant, relate to each other and which of them prevailed in the event of a conflict between their provisions?

15. Punishment by flogging was a clear violation of article 7 of the Covenant. The Committee had stated in unequivocal terms that it was a violation of human dignity and could not be justified on grounds of expediency or by reference to cultural values.

16. According to article 8 of the Great Green Document, the death penalty was applicable to those whose lives threatened or undermined society. Article 4 of the Promotion of Freedom Act prescribed the death penalty for a person whose life endangered or corrupted society. He wondered how such vague and largely subjective provisions were interpreted by the judiciary. In his view, they went far beyond what was permissible under article 6, paragraph 2, of the Covenant.

17. The ILO Committee of Experts on the Application of Conventions and Recommendations had drawn attention to occupational segregation according to sex and the stereotyping of jobs for women in the Libyan Arab Jamahiriya. What steps had been taken to remove those disparities and ensure that equal wages were paid for work of equal value, irrespective of sex? Moreover, had husbands the right under law to initiate divorce unilaterally? Was polygamy tolerated? What percentage of women held office at various levels of the judiciary?

18. As judges were appointed to the superior courts by the Higher Council of the Judiciary, he would like to know more about the composition of the Council. Which authority had disciplinary jurisdiction over judges of superior courts? Was there any institutional mechanism for entertaining and investigating complaints concerning torture or ill-treatment by police officers?

19. Mr. LALLAH said he had been impressed by the delegation's comments on the Jamahiriya's dynamic approach to the interpretation of Shari'a law, in particular its recognition of the need to take account of the different circumstances prevailing at the time of revelation of its provisions.

20. In connection with Convention No. 111 concerning Discrimination in respect of Employment and Occupation, ILO had drawn attention to the fact that categorization according to sex in the Jamahiriya had led to a concentration of men and women in different occupations and sectors of activity. Were there any women judges or women members of the Higher Council of the Judiciary? How was non-discrimination ensured in access to and advancement in public-service careers?

21. He was concerned about the status and freedom of movement of Sri Lankan women employed in the Libyan Arab Jamahiriya. Their passports were reportedly held by their employers and, if they were not allowed to put an end to their employment, they were effectively victims of forced labour in violation of article 8 of the Covenant.

22. While he welcomed the lengthy report and the philosophy and principles it contained, he joined other members of the Committee in lamenting the lack of practical information. It would have been interesting to know, for

example, how many persons had been sentenced to death and executed and how many had benefited from commutation of their sentence since the second periodic report had been submitted.

23. Mr. HAFYANA (Libyan Arab Jamahiriya) said he had taken note of the Committee's disappointment and dissatisfaction with the third periodic report and the doubts thus cast on the possibility of having a productive dialogue. Nevertheless, his delegation was committed to adopting a positive approach and achieving concrete results.

24. Many questions had regrettably conveyed the impression that the Libyan Government and people were viewed, so to speak, as outlaws, a fact that was manifestly far from the truth. The allegation that excision was practised in the Jamahiriya had been made some five years previously in a report by the State Department of the United States and had been taken up by the Committee. But it had absolutely no basis in fact. It seemed to make no difference how many times such allegations were denied once a fixed idea or a prejudice had taken hold.

25. All international treaties to which the Libyan Arab Jamahiriya had acceded, including the Covenant and Optional Protocol, were submitted to and ratified by the General People's Congress, whereupon they became an integral part of domestic legislation. A body had been established to settle conflicts between international treaties and domestic law. For example, abortion was authorized only when the health of the mother or that of the foetus was at risk. Otherwise it was viewed in the Shari'a as murder, and the Libyans, as a Muslim people, could not set the Shari'a aside. For the most part, however, the provisions of the Covenant were compatible with Libyan legislation and an effort was made to reconcile them with the distinctive features of the Libyan way of life. Religious, geographical and cultural diversity was a fact of life and had not been invented for the purpose of justifying violations of human rights.

26. The Libyan Arab Jamahiriya had not yet signed the Second Optional Protocol, like many other member States of the Organization of the Islamic Conference. However, the Great Green Document on Human Rights urged Libyan society to work towards the ultimate elimination of the death penalty. Offences prejudicial to State security were still punishable by the death penalty. The only economic crime of equivalent seriousness was destruction or sabotage of petroleum facilities, which were of vital importance to the Libyan economy. Drug-trafficking was a major problem in a country with a 1,800 km coastline and such long land borders. If, for example, drug traffickers opened fire on the security forces, they would be liable to the death penalty. In the case of a blood crime, the death penalty could be waived if a relative of the victim renounced his right to exact that penalty before a court.

27. The insurrection in Abyu Walid in southern Libya had resulted in the destruction of public buildings and institutions. It had been demonstrated that foreign forces intent on carrying out a coup d'etat had been involved in the events. The parties concerned had been tried by due process of law in the military courts. Some had been acquitted, some convicted and some sentenced to death.

28. Security of person and freedom of expression were guaranteed except when there was a threat to public order or to the values of Libyan society. Censorship was regulated by the Censorship Act and foreign newspapers and periodicals were freely available.

29. With regard to the question of the legal status of the Optional Protocol, it was taught in law and political science faculties and there was even a university course on human rights and the International Covenant on Civil and Political Rights as well as other instruments ratified by Libya. Those conventions had to be respected by public prosecutors and judges and the texts were available to all interested persons, in particular jurists and other persons working in the legal field.

30. As to discrimination against women, to his knowledge, there was no other country in the Arab world in which women held as much prominence in public life. There was complete equality of the sexes in Libya. Consenting partners entered freely into marriage. After the age of 18, in accordance with the Personal Status Code, a woman could marry the man of her choice and could not be forced to marry someone against her wishes. In the past, men had enjoyed a great deal more freedom with respect to marriage, but that situation had changed.

31. Like marriage, divorce was also a contract and proceedings could be filed by either party. The matter would then be decided on by the courts in accordance with the nushuz provision of the Shari'a, governing violation of marital duties by either spouse. The Libyan courts had cancelled the absolute right to separation that men had previously enjoyed. The right to polygamy had been renounced. Men were allowed to take a second wife only if their wife was sterile or so ill that normal conjugal relations were not possible. Otherwise, such a marriage would have no validity in law and the first wife would be entitled to material and psychological compensation for the suffering caused by a second marriage entered into without her consent. However, a woman could also file for a divorce from her husband for the same reasons. Both men and women were punishable, under the Shari'a, for adultery. If a Libyan married a foreigner, his or her Libyan nationality was passed on to the children.

32. No discrimination existed between men and women in the workplace. Women were free to enter traditionally male-dominated professions such as the army, aviation, both civil and military, engineering. Because of the principle of non-discrimination, some women were more eminent than men. Again, women were allowed to move freely within and outside Libya's borders except where there were social or professional constraints.

33. On to the question as to whether there might not be a contradiction between the Covenant and Libyan legislation with regard to women, he said that Libya had withdrawn its reservation in that regard. The provisions of the law were applied within strict limits and did not run counter to the terms of the Covenant.

34. Libya had had no connection with the murders of two Libyans in London and Malta. It had asked the British authorities to collaborate in the investigations into the death of the Libyan killed in London, but had received

no reply in that regard. As to the second case, the Maltese authorities had, at no time, accused the Libyan authorities of being responsible for the crime. Libya therefore considered itself free of any blame regarding either incident.

35. No cases of flogging or amputation had occurred in Libya. The Shari'a was the legal source consulted in cases of adultery and drunkenness. Some correlation between the Covenant and Shari'a was essential for countries governed by Islamic law. In the matter of collective punishment, could any member of the Committee provide a concrete example from a well informed source - an NGO, for instance? No houses had been destroyed or families taken hostage in the course of arrests or inquiries. Libya respected the right to presumption of innocence.

36. Doubts had been cast on the accuracy of the figures contained in the report. However, Libya had submitted a detailed, comprehensive report setting out the full extent of Libyan legislation, which was wholly consistent with the Covenant. As head of the delegation, it was not his duty, therefore, to dispel any lingering doubts the Committee might have.

37. With reference to the compatibility of the law on detention and the provisions of the Covenant, he said that when a person was detained for questioning his rights were fully respected. The prosecutor stipulated 6 days of detention to initiate the inquiry and the examining magistrate a further 6 days for the investigation. After that time, the period of detention could not be extended except by order of the Court of Appeal, consisting of three judges. Pre-trial detention was intended exclusively for the inquiries and the length depended on the gravity of the crime, the number of accessories and the time required to gather sufficient evidence. However, the maximum duration for pre-trial detention stipulated by law was 90 days, after which, the person had to be released if no evidence was produced. The release was granted by the lawyer in charge of the inquiry, in accordance with the Penal Code and other codes. Supreme Court decisions on criminal and other cases were binding and were published in a gazette made available to lawyers and prosecutors. Higher Court decisions were published and were distributed to all legislators, judges and lawyers.

38. It should not be forgotten that the Libyan Arab Jamahiriya was a developing country. His delegation was not convinced that the Universal Declaration of Human Rights reflected the reciprocal influence of all the continents; it was merely a translation of European culture and civilization. The 1993 World Conference on Human Rights held in Vienna had affirmed that human rights resulted, not from cultural and political experience alone, but from the interaction of the international community in all its cultural diversity, which was the heritage of all mankind. Religious and cultural differences must be taken into account. Only thus could globalization, which threatened to transform the world into one homogeneous global village, be resisted. How could there be a global village when such great disparities continued to exist between developed and developing countries?

39. The judicial system was a comprehensive one based on the Penal Code and other codes. At the summit was the Higher Court which tried criminal cases and heard appeals. Judges were independent and took decisions based on the law and their consciences.

40. Every citizen over 18 years of age was entitled to Libyan nationality and a Libyan passport, a sacred right that was held from birth. A passport application could be refused, but the applicant had a right to challenge the decision by an appeal.

41. As to the intimation that his delegation had tried to deny cases of torture in Libya, he failed to see what the Committee's sources were. At a session of the Committee against Torture, a Canadian professor had made certain allegations. However, Libya had acknowledged several cases of torture and had said that the victims had been compensated and the perpetrators - army officers - tried and punished. No denial had been made then. Perhaps Libya's weakness lay in furnishing more information than was requested, in its endeavour to arrive at solutions and out of its sense of concern for respect for human rights.

42. The CHAIRPERSON said she regretted that the Committee was thought to be demonstrating prejudice. The Committee's work was highly legal and efforts were made to ascertain the compatibility between Libyan legislation and the Covenant. To do so, the Committee had to ask specific questions so as to dispel any doubts.

43. Mr. TLEBA (Libyan Arab Jamahiriya), said that an example of torture had been cited and had figured in Libya's report to the Committee on Torture. The officer in question had been imprisoned for more than five years. Clearly, Libya was not embarrassed to admit the existence of torture. In all cases, the perpetrators had been punished.

44. The Higher Council of the Judiciary, comprising the Minister of Justice, the President of the Higher Court, the Prosecutor-General, the Presidents of the Courts of Appeal and the Presidents of the judicial authorities, was responsible for the recruitment and discipline of judges and all decisions taken in their regard. As to women's participation on the Higher Council, a 1989 law had accorded women the right to legislate and, in fact, women represented 20 per cent of the total number of employees in the legal sector. However, the Higher Council of the Judiciary admitted persons on the basis of their seniority. Most women had not yet acquired the requisite seniority, but would do so in due course. There was no discrimination between men and women in employment. The only differences related to individual ability.

45. Regarding inquiries conducted in prisons, there was no commission of inquiry, but judges who were totally independent of the security forces and the administration were free to visit prisons and hear prisoners' complaints. The Human Rights Committee, which had NGO status, was also allowed to visit prisons. The Libyan authorities had made a major effort to inform staff members of the various departments of justice how arrests were to be carried out.

46. Human rights and the Great Green Document on Human Rights in the Age of the Masses were taught in secondary schools and other institutions. Indeed, human rights was one of the core subjects taught in universities and included the historical origins of human rights in primitive societies, human rights under the Persian and Roman Empires as well as under Islam. Human rights in the present-day context, comprising a study of regional and international

instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, were also taught in universities. That included the medical and social sciences faculties, pursuant to a 1976 Ministry of the Interior decision that human rights should be taught in all university faculties.

47. Seminars with regional and international input had been organized to disseminate information on human rights. The media also played an important role in that respect. The Libyan Arab Committee on Human Rights in the Age of the Masses, an NGO, had been instrumental in promoting human rights and raising public awareness. In June 1998, it had organized a symposium which focused on methods to combat torture. The symposium had been broadcast live. In the Spring, the Libyan authorities had arranged a human rights festival, involving political personalities and Arab and international NGOs, in association with the National Committee of Public Safety and Security. Another meeting had been held with the participation of numerous experts, including forensic experts, on the prevention of torture and respect for the human rights of detainees. Clearly, international human rights instruments were widely publicized in the Jamahiriya.

48. Agreeing with Mr. El Shafei that Libya faced many obstacles in respecting the provisions of the Covenant, he appealed for the Committee's support. The Libyan people were suffering because their right to development was being undermined. He hoped they could count on the Committee's assistance, not because the suffering came from internal sources, but because it stemmed from the economic blockade and other decisions taken against Libya.

49. The CHAIRPERSON invited the delegation to reply to the issues raised in the second part of the list (CCPR/C/64/Q/LIB/1), beginning with paragraph 8.

50. Mr. HAFYANA (Libyan Arab Jamahiriya) said paragraph 8 seemed to imply that there was some sort of complicity between the courts and the security apparatus, which was entirely untrue. When an inspection was carried out, the right to privacy had to be respected. No one's house could be searched without a court order. The police officer had to submit a detailed report on the inspection, citing his own name and rank. There had to be due cause for the search, connected directly to a crime. The length of time allotted for the search was limited, and that limit had to be respected; otherwise the court order was invalidated. A number of provisions in the Code of Criminal Procedure and other legislation outlined measures to ensure the inviolability of persons, property and correspondence.

51. As to paragraph 9, freedom of expression could be restricted only in the event of war, aggression or serious public disturbances leading to a declaration of a state of emergency. Such restrictions must be set out in law and their validity expired when the situation leading to their adoption came to an end. A state of emergency had been declared only once in the history of the Libyan Arab Jamahiriya: in 1956, when Israel, the United Kingdom and France had carried out a joint attack on Egypt. Paragraph 286 of the report required no elucidation. It described restrictions imposed when the right to freedom of expression was exercised in a manner prejudicial to social

traditions or the rights and freedoms of others. Libya was by no means the only country in the world that restricted the exercise of the right to freedom when it could be harmful to others.

52. With reference to paragraph 10, on freedom of conscience and religion, Libya was a Muslim society based on Islam, namely, what had been revealed to Muhammad by the angel Gabriel. The teachings of the various sects were considered to be schools of thought and of jurisprudence. Islam recognized the other monotheistic religions, Judaism and Christianity. The Penal Code stipulated that obstruction of the freedom of religion of Jews and Christians was punishable on the same terms as that of Muslims.

53. Libya had no Jewish or Baha'i communities but there were Christians from other countries who worked and lived there. A representative of the Holy See supervised the affairs of the Catholic community, who were fully able to practise their faith. There were no sects in the Libyan Arab Jamahiriya.

54. Paragraph 11 (b) raised the question of how the prohibition of collective bargaining for certain categories of workers could be reconciled with article 22 of the Covenant. The question appeared to be predicated on a lack of understanding of the labour situation in Libya. There were no workers, as there were no employers. The worker was a partner in the production process, which had three components: the capital invested, the equipment used and the human effort furnished. The dividends were divided equally among those three components, and the worker was considered a partner, not a hireling. The Great Green Document on Human Rights set out a principle not found even in the Covenant: the right of every person to enjoy the fruits of his or her endeavour.

55. With regard to paragraph 12, on the right to take part in the conduct of public affairs, the concept of authority in Libyan society was based on the dual pillars of People's Congresses, which took decisions, and People's Committees, which implemented them. The People's Congresses discussed the economy, education, health, agriculture, industry and all other aspects of public life. The People's Committees were selected by the members of various communities and had executive and legislative authority at the national level. Because it had been found necessary to bring experts into the decision-making process, various talents were pooled in an Expert Committee comprising specialists in petrochemicals, education, health, agriculture, and so on. The Committee did the preparatory work for the People's Congresses.

56. The Tuaregs were mentioned in paragraph 14 of the list of issues. Unlike the situation in other African countries of the Sahel, the Tuaregs were not a minority in Libya, but Libyans like everybody else. There was no discrimination against them. The Berber community was mentioned in the report as one of the population groups in Libya: it was made up of successive waves of Arab migrants, primarily from Yemen.

57. Ms. AL-HAJJAJI (Libyan Arab Jamahiriya), referring to paragraph 13 (a) of the list, concerning equality of husbands and wives and the rights of the child, said the relevant information had already been provided in the context of paragraph 6 (a). On paragraph 13 (b) in general, she referred members of

the Committee to the Jamahiriya's initial report to the Committee on the Rights of the Child (CRC/C/28/Add.6), which had been discussed by the Committee in January 1998.

58. Concerning the specific question on acquisition of nationality by a child, article 38 of the Civil Code stipulated that every person had the right to a name and that the family name was passed on to children. Article 53 of the Code set out the relevant regulations. Article 404 of the Penal Code established a prison term of not more than five years for anyone who hid the existence of a newborn child or gave false information to the Registrar of Births. The Charter on the Rights and Duties of Women in the Jamahiriya stated that children of Libyan women and foreigners enjoyed the same rights and duties as did other children.

59. Paragraph 13 (c) and the question about discrimination against children born out of wedlock and children of migrant workers and non-nationals implied a continuing pattern of discrimination. The Holy Qur'an was the foundation for Libyan society, and the family was a sacred entity and a building block of that society. The family consisted of husband and wife joined in a legitimate and licit relationship, and they produced children. Where a child was born out of wedlock, the father, if he was known, was given responsibility for the child; otherwise the child was placed in a State home in which care and education were provided by social workers and nurses. The children were given training so as to enable them to lead a normal life, boys by working, girls by marrying.

60. As to the children of migrant workers, she would point out there were no migrant workers per se; rather, there were members of a foreign workforce who had contracts to do certain work in Libya. Their children lived like other children in Libya. Large foreign communities were able to set up schools to teach children in their own language and with their own curricula. Places of worship were open so that they could practise their religion and health services were provided to all people living on Libyan soil. Children of non-nationals had the same rights and duties as Libyan children.

61. Mr. HAFYANA (Libyan Arab Jamahiriya) said members of the Committee had mentioned that the Promotion of Freedom Act gave a definition of torture similar to the one in the Covenant. Article 17 of the Act stated that everyone was presumed innocent until proved guilty by judicial decision. Subjecting an accused individual to any form of torture was prohibited.

62. A report by Amnesty International had apparently indicated that three Libyan citizens had been arrested, subjected to interrogation and imprisoned and that their whereabouts was unknown. In fact, one of them had written to Amnesty International, not only to refute that information, but to say that its publication had adversely affected his professional position as president of the governing council of the Arab Union of Entrepreneurs, which had numerous branches both in Libya and abroad and a capital of about US$ 60 million. The second individual mentioned in the report had likewise refuted the information, while the third, at the time of his alleged arrest, had been undergoing medical treatment in Switzerland. His country deeply

appreciated the role played by Amnesty International in the monitoring of human rights, both in Libya and elsewhere, but its information should always be drawn from trustworthy sources.

63. Information on the Libyan Arab Jamahiriya Human Rights Committee, as requested in paragraph 15 of the list, had already been provided by his colleague. In regard to dissemination of information on the Covenant, mentioned in paragraph 16 of the list of issues, he pointed out that the subject of human rights was on the curriculum at the secondary school and university levels. Round tables were held on that subject regularly, in cooperation with other countries, as a way of raising awareness about the contents of human rights instruments.

64. Mr. SCHEININ, noting the delegation's words of praise for the work of Amnesty International, said that one of its reports contained information on collective punishment in the form of detention of family members. In 1995, the parents of a man killed for allegedly being a member of an Islamist group had been detained along with other members of his family, and the wife and baby daughter of a man killed in similar circumstances had likewise been detained. In both cases, the detention by security forces had lasted for an extended period. Amnesty International had also pointed to a pattern of destruction of the houses of Libyan leaders in exile. One incident, in which the house of an exiled leader had been bulldozed, had occurred as recently as late 1996.

65. Mr. YALDEN joined in welcoming the Libyan delegation and thanking it for its contribution to the dialogue. Much had been said about hostile sources and bias on the part of the Committee. Although he had not long been a member, he had never yet seen any sign of bias. The Committee's attempts to bring out objectively the facts of a country's performance under the Covenant certainly did not constitute bias.

66. On protection of minorities, the Committee on the Elimination of Racial Discrimination had stated as recently as March 1998 that Libya had not provided any of the information requested on the country's demographic composition and that its declaration that there were no ethnic minorities simply ignored the existence of Berbers, Tuaregs or Black Africans. The delegation had just stated that the Tuaregs were Libyans like everyone else and, as such, were not subjected to discrimination. The Committee had indicated, in its General Comment 23, that States which claimed they did not discriminate on grounds of ethnicity wrongly contended that they had no minorities. The existence of minorities had to be established objectively. There appeared to be a large body of evidence accepted by a wide range of organizations that there were minorities in Libya who were at times subjected to discrimination. Nothing he had heard from the delegation rebutted those presumptions, but he hoped the issue would be addressed.

67. Concerning the question in paragraph 15 of the list, he would like to know whether there were any independent human rights monitoring mechanisms in Libya to which complaints could be brought and, if so, whether they had received any complaints of discrimination and how they had dealt with them. The delegation had not given a specific answer to the question of whether the legal profession and the general public had been informed of the right to file

complaints under the Optional Protocol. It was his understanding that, although Libya had acceded to both the Covenant and the Optional Protocol in 1989, only two communications had been received since then, and they were from persons who were either not Libyans or not living in Libya at the time of the communication. That would seem to suggest that, although the Covenant itself had been publicized, the Optional Protocol could not be very widely known.

68. Ms. GAITAN DE POMBO assured the delegation that the Committee, from its study of Libya's previous reports and of information available to it from various sources, was well aware of the social and cultural situation in Libya, and recognized the great diversity of races, cultures and religions represented there when assessing its compliance with the Covenant. She realized that Libya was suffering great difficulties, both internally and externally, as a result of being the victim of an economic embargo which affected the people's fundamental rights, and she hoped it would find a way of overcoming those difficulties.

69. She would appreciate more detailed information on how the rights set out in articles 22 and 25, namely the right to engage in political activities and the right to stand for election, were guaranteed for opposition parties - not in law but in practice. Were human rights NGOs entitled to request information on issues which the Government considered to be related to the security of the State? Lastly, what machinery was used to make sure that not only the Covenant but also the Optional Protocol were publicized, so that citizens were aware of their right to submit communications to the Committee?

70. Mr. BHAGWATI said he too wished to emphasize that the Committee was concerned only to improve the implementation of human rights by States parties: there was no question of any bias or prejudice.

71. He did not think the delegate had replied to the question in paragraph 9 (b) of the list, concerning the Publications Act, under which it was an offence to express political views ideologically opposed to the established political, social and economic system. What steps were being taken to repeal or amend that Act so as to remove restrictions on freedom of expression? He had not fully understood the statement that there was no employer/employee concept in Libya and would welcome clarification. Lastly, he would like to know whether children born out of wedlock had the same rights as legitimate children in respect to inheritance of property from the father.

72. Mr. ANDO said he understood that an agreement had been concluded between the Vatican and the Government regarding the treatment of Catholics in Libya. As the Committee saw it, Christians would constitute a minority. Did they enjoy the same rights as the Muslim majority?

73. Ms. EVATT said the delegation had asked whether the Committee was trying to turn the world into a global village. She pointed out that the purpose of articles 18, 26 and 27 of the Covenant was specifically to protect diversity, provided that the enjoyment of that diversity was not inconsistent with rights which States parties had agreed to accept and apply. The cause of diversity was better ensured by recognizing and protecting it than by insisting on uniformity.

74. The statement made in paragraph 288 of the report was not correct. Restrictions on rights such as freedom of expression had to be shown to be necessary for the specific purposes defined. Did Libya contemplate a critical analysis of such restrictions in order to ensure that they were in conformity with the Covenant?

75. Mr. LALLAH said he was somewhat perplexed to see that on the one hand the delegate was asserting that the rights set out in the Covenant represented purely western values, and on the other hand was claiming that Libya was respecting those rights. The Committee did not regard human rights as the monopoly of the west: that was clear from article 1 of the Covenant, which established the right of all peoples to self-determination, a right which might be said to have been violated by the west in the past.

76. Concerning the right to freedom of expression, he associated himself with the request for the delegation to respond to the question in paragraph 9 (b) of the list of issues.

77. The CHAIRPERSON invited the delegation of Libya to respond to the questions raised by members of the Committee.

78. Mr. HAFYANA (Libyan Arab Jamahiriya) said the Committee seemed to be constantly insisting that minorities such as Berbers or Tuaregs existed in Libya, whereas there were no such minorities. The terms "Berber" or "Barbarian" had been applied by the Romans to Arab communities within their empire living in such countries as Tunisia, Libya and Mauritania who resisted efforts to impose the Christian religion. Historical, anthropological and geographical studies had shown that all the peoples of North Africa formed part of a single family, the Semitic family, and that apart from linguistic differences there was nothing to distinguish "national" populations from "minorities". The argument for the existence of minorities was used as a device to provoke the "Balkanization" or fragmentation of his country.

79. In response to questions about the detention of the members of the family of a person under arrest, he emphasized that Libya regarded members of extremist communities who took up arms against the State as a threat to national security, and members of their families would likewise represent a threat. No opposition parties in fact existed in Libya itself: opposition was based in London, where meetings were held at the Centre for Strategic Studies with support from the CIA. However, freedom of expression was ensured by the People's Congresses, at which everyone was free to express his views. While it was true that the majority of the population were of the Muslim faith, the rights of members of other religious communities, such as Jews and Catholics, were safeguarded by the Government.

80. The fact that the Committee had received only two communications under the Optional Protocol over a long period was surely a good sign. The texts of both the Covenant and the Optional Protocol had been published in Libya's Official Gazette and copies had been distributed to magistrates and judges. The provisions they contained had the force of law. The Government was doing all it could to make those instruments more widely known. It was surprising that the Committee should doubt Libya's good intentions in that regard, in

view of the fact that Libya had voluntarily acceded to both the Covenant and the Protocol and had agreed to submit reports and to appear before the Committee.

81. It should be realized that, owing to the boycott imposed on it, the population of Libya had been deprived of many rights it was entitled to enjoy, including the right to development, the right to travel freely, and the right to medical treatment. The permanent members of the Security Council were utilizing the provisions of the Charter of the United Nations as justification for a strategy aimed at destabilizing and dividing developing countries like his own.

82. The CHAIRPERSON thanked the delegation for introducing Libya's report. However, she would remind it that the Committee's mandate was solely to examine the conduct and the laws of a State party to see how far they complied with the provisions of the Covenant. It was therefore discouraging that there had been no response to the concerns expressed at the time the previous report had been considered, and that so little information had been provided. Libya was a party to the Covenant and had voluntarily undertaken to comply with the resulting obligations.

83. Members of the Committee were left with a number of doubts and concerns following their dialogue with the delegation. No reply had been given to the question as to whether the Covenant or the Great Green Document on Human Rights would take precedence in cases of conflict, and who was to decide in such cases. Imposition of the death penalty for a wide range of offences, particularly for the purposes of retribution, was not compatible with article 7. The Committee regretted the lack of information concerning the regime governing death sentences, executions and amnesties, and also regretted that its previous finding that flogging represented a clear violation of the Covenant had not been taken into account in the third periodic report. Details of mechanisms for the conduct of investigations, and details of the laws on the use of torture and on prison conditions, were also lacking. Doubts remained as to whether extension of the period of remand in custody, mentioned in paragraph 169, was in conformity with article 9 of the Covenant.

84. On the question of equality between men and women, it appeared from the replies that women were still unequal in regard to inheritance and the continuing practice of polygamy. The same seemed to be true in regard to divorce, where a woman would lose her right to sue if she could not prove her husband's guilt. Any differentiation in terms of rights between children born in or out of wedlock was incompatible with article 24 of the Covenant.

85. On the question of religion, the assertion in paragraph 274 of the report that all Libyans were Muslims by birth and heredity would seem in itself to be incompatible with article 18. The grounds for restricting freedom of expression needed to be specifically defined in law and not merely stated in general terms. Lastly, she stressed that respect for the rights of minorities would certainly not cause problems for a State party: it was failure to respect those rights that might give rise to problems.

86. The Committee would formulate its concluding observations in the course of the session, and Libya would be informed of the date by which its next report was due. She hoped that it would take due account in that report of the issues raised in those observations.

87. Mr. HAFYANA (Libyan Arab Jamahiriya) said the Committee seemed to persist in returning to the same questions. He had already explained that women were equal to men in rights and duties, both in law and in practice. There was no polygamy in Libya, and marriage and divorce could only be concluded on the basis of mutual agreement. Husbands could only take a second wife in cases of sterility or where illness prevented conjugal relations, and only if authorized by the first wife.

88. Just as Libya was concerned to comply with its obligations under the Covenant and the Optional Protocol, so the Committee should be concerned that the Libyan people were being deprived of many basic rights, including the right to live in peace and freedom, as a result of unjust decisions. His delegation greatly appreciated the Committee's work, and had full confidence in its neutrality and independence, which was ensured by the geographical diversity represented by its members. Libya was not attempting to justify human rights violations anywhere, but it wished to warn against selective use of the minorities issue by the forces of globalization to provoke the fragmentation of sovereign States.

89. In conclusion, he expressed his gratitude to the Committee for the time it had devoted to his country's report and for the valuable dialogue that had taken place.

90. The delegation of the Libyan Arab Jamahiriya withdrew.

The meeting rose at 6.10 p.m.